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10/669,153	09/22/2003	Keisuke Sone	JCLA12271	2981

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EXAMINER

BINDA, GREGORY JOHN

ART UNIT PAPER NUMBER

3679

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/669,153

Applicant(s)

SONE ET AL.

Examiner

Greg Binda

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 2,4-10 and 12-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040217.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*Election/Restrictions*

1. Applicant's election with traverse of the constant velocity joint shown in Figs. 1-8 (Group I, Species I) in the reply filed on October 29, 2004 is acknowledged. The traversal is on the ground(s) that all of the species shown in Figs. 1-18 belong to a single invention. This is not found persuasive because it does address the patentability of any one of the species with regard to each of the other species. Thus applicant has failed to submit valid grounds for overcoming the election requirement. See MPEP § 808.01(a).

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 2, 4-10 & 12-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 29, 2004.

Claim 5 is withdrawn because it reads only on a non-elected species. See the last paragraph on page 22.

*Information Disclosure Statement (IDS)*

3. The listing of references in the specification as on pages 2-5 is not a proper IDS. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

*Specification*

4. The disclosure is objected to because page 2, line 18 includes an undefined acronym, BJ.
5. The specification is objected to as failing to comply with 37 CFR 1.71 and 1.75(d)(1) because the detailed description of the elected species fails to provide proper antecedent basis for the subject matter in claim 1, lines 11+.

*Abstract*

6. The abstract of the disclosure is objected to because of improper language and format.  
See MPEP § 608.01(b).
  - a. The abstract should be a single paragraph.
  - b. The abstract should be in narrative form and refrain from using the form and legal phraseology used in patent claims.

*Claim Objections*

7. The claims are objected to as failing to comply with 37 CFR 1.75(i) because elements of the claims are not separated by line indentation.

*Claim Rejections - 35 USC § 112*

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. Claims 1, 3 & 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 1, lines 11 & 12 recites the limitation “the region” but does not specify to what element “the region” is a region of.

b. Claim 1, lines 11 & 12 recites the limitation “the axial center” but does not specify to what element “the axial center” is the axial center of.

*Claim Rejections - 35 USC § 102*

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1 & 3 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 100 60 220. According to applicant’s explanation of relevance (see the search report included with the IDS filed February 17, 2004), DE 100 60 220 discloses a constant velocity joint(s) comprising all the limitations of the claims.

12. Claims 1, 3 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacob, US 4,950,206. Figs. 1, 2 & 4 show constant velocity joints comprising all the limitations of the claims.

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13. Claims 1, 3 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Weckerling et al, US 2002/0094230. Fig. 3 shows a constant velocity joint comprising all the limitations of the claims.

*Conclusion*

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (703) 305-2869. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**GREGORY J. BINDA**  
**PRIMARY EXAMINER**